

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS (EASTERN DIVISION)**

**IN RE:**

Chatchai Paungsombat

Debtor

Case No.: 16-23384

Chapter: 13

Hearing Date: 01/07/2020

Judge Jack B. Schmetterer

**NOTICE OF MOTION**

TO: Tom Vaughn, Chapter 13 Trustee, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603  
by electronic notice through ECF  
Chatchai Paungsombat, Debtor, 7557 N Waukegan, Niles, IL 60714  
Patcharin Sirirak, Co-Debtor, 7557 Waukegan Rd, Niles, IL 60714  
David H Cutler, Attorney for Debtor, 4131 Main St., Skokie, IL 60076  
by electronic notice through ECF

PLEASE TAKE NOTICE that on 01/07/2020, at 10:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Jack B. Schmetterer, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 682, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on December 23, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on December 23, 2019.

/s/ Grant Simmons

Attorney for Movant

Berton J. Maley ARDC#6209399  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Brenda Ann Likavec ARDC#6330036  
Karl V. Meyer ARDC#6220397  
Grant W. Simmons ARDC#6330446  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**14-16-09433**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on December 23, 2019 and as to the debtor and co-debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on December 23, 2019.

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/s/ Grant Simmons  
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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND CO-DEBTOR STAY**

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**NOW COMES** HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C, (hereinafter “Movant”), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) and §1301(c) for an Order granting Movant relief from the automatic stay and co-debtor stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 7557 Waukegan Rd, Niles, IL 60714;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 7/21/16;
4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;
5. Pursuant to the plan, the Debtor is to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 11/07/2019, the Debtor is past due for the 5/1/19 post-petition payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 11/07/2019, the total post-petition default through and including 11/1/19, is \$10,705.43, which includes a suspense credit of \$41.18. Any payments received after this date may not be reflected in this default. This amount includes plus post-petition attorney fees in the amount of \$1,000.00;
- c) On 12/01/2019, the default will increase to \$12,054.36 and will continue to increase as additional amounts become due;

7. Further, Debtor is currently in default to the Trustee in the amount of \$1,065.00, or approximately 3 months in Trustee payments;

8. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

9. PHH Mortgage Corporation services the underlying mortgage loan and note for the property referenced in this Motion for Relief for HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C (the noteholder). HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed;

10. That the subject mortgage is co-signed by Patcharin Sirirak and that to the extent that the co-debtor stay of 11 U.S.C. §1301 applies to real estate loans, it applies to Patcharin Sirirak and grounds exist for relief therefrom under 11 U.S.C. §1301(c)(1) as the co-debtor received an ownership interest in the house and under 11 U.S.C. §1301(c)(3) if the automatic stay is modified therein;

11. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding that may be included in the calculation of any default figures quoted herein, including:

\$400.00	for Plan Review
\$500.00	for Objection to Plan Confirmation
\$100.00	for Post-Petition Fee Notice
\$850.00	for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
\$181.00	for Court filing fee

12. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order.

**WHEREFORE**, HSBC Bank USA, National Association, as Trustee for Fremont Home Loan Trust 2006-C, Mortgage-Backed Certificates, Series 2006-C prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) and Section 1301(c) modifying the automatic stay and co-debtor stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this December 23, 2019.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Grant Simmons

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